

REMARKS

Claims 1-27 are pending in the present case and stand rejected by the Examiner. In the Office Action dated 06/12/02, the Examiner made a number of arguments and rejections. Per the Examiner's request, Applicants note the power of attorney objection and now submit a signed power of attorney form. Office Action, pg. 2. Applicants hereby confirm the Applicants as a small entity. Office Action, pg. 2. In addition, Applicant's note the Information Disclosure objection and submit a PTO Form 1449, listing the references disclosed in the present case through their disclosure in the Parent Application Serial No. 08/851,588 (from which the present application is a continuation). Office Action, pg. 2.

The Examiner has rejected the Claims on a number of grounds. Claims 16 and 23 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 15-27 stand rejected for allegedly double-patenting US 6,210,880 (hereinafter '880 patent). Claims 1-14 stand rejected for allegedly double-patenting US Provisional 09/825,574 (herein after '574 application). Each of these grounds is addressed below.

Applicants note that all amendments and canceling of Claims presented herein are made without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process, and directing the Claims to certain preferred embodiments, in a manner consistent with the PTO's Patent Business Goals (PBG),¹ and without waiving the right to prosecute the amended or canceled Claims (or similar Claims) in the future.

1. Claims 16 and 23

Claims 16 and 23 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter. The Examiner states "the term 'substantially' in claims 16 and 23 is a relative term that renders the claim indefinite." Office Action, pg. 3. The Applicants respectfully disagree. However, in order to expedite the prosecution process, the applicants now amend Claims 16 and 23 and remove the term 'substantial' from the Claims. This amendment renders the indefiniteness rejection moot, and the Applicants request that the rejection be withdrawn.

¹ 65 Fed. Reg. 54603 (Sept. 8, 2000).

2. Claims 1 - 27

Claims 15-27 stand rejected for allegedly double-patenting the '880 patent. Claims 1-14 stand rejected for allegedly double-patenting the '574 application. The Applicants respectfully disagree. The filing date for the present invention was May 5, 1997. The filing date for the '880 patent, and the '574 application as a continuation of the '880 patent, was September 19, 1997. As such, the '880 patent and the '574 application are not prior art to the present invention. Applicants respectfully request that the Examiner withdraw the double patenting rejections for Claims 1-27.

CONCLUSION

All grounds of rejection of the Office Action of June 12, 2002 having been addressed, it is respectfully submitted that the invention as claimed fully meets all requirements and that the claims should be passed to allowance.

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Appendix I

Version with markings to show changes made

1. (AMENDED) A method for detecting the presence of a folded target in a sample, comprising:
 - a) providing:
 - i) a sample suspected of containing a folded target having a deoxyribonucleic acid sequence comprising one or more double stranded regions and one or more single stranded regions; and
 - ii) [one or more] a plurality of oligonucleotide probes complementary to at least a portion of said folded target; and
 - b) mixing said folded target and said [one or more] plurality of probes under conditions such that said plurality of probes hybridize [probe hybridizes] to said folded target to form [a] probe/folded target complexes [complex]; and [.]
 - c) detecting said probe/folded target complexes to detect the presence of said folded target in said sample.
4. (AMENDED) The method of Claim 1, wherein said plurality of probes [probe] in said probe/folded target complexes are [complex is] hybridized to [a] single stranded regions [region] of said folded target.
5. (AMENDED) The method of Claim 1[2], wherein at least one of said plurality of probes [probe] comprises an oligonucleotide having a moiety that permits its capture by a solid support.
6. (AMENDED) The method of Claim 5, wherein said detecting [the presence of] said probe/folded target complexes [complex] comprises exposing said probe/folded target complexes [complex] to a solid support under conditions such that said oligonucleotide having a moiety [probe] is captured by said solid support.

9. (AMENDED) The method of Claim 1[2], wherein said folded target comprises a deoxyribonucleic acid sequence having a moiety that permits its capture by a solid support.
10. (AMENDED) The method of Claim 9, wherein said detecting [the presence of] said probe/folded target complexes [complex] comprises exposing said probe/folded target complexes [complex] to a solid support under conditions such that said folded target is captured by said solid support.
12. (AMENDED) The method of Claim 1, wherein at least one of said plurality of probes [probe] is labelled.
13. (AMENDED) The method of Claim 1, wherein at least one of said plurality of probes [probe] is attached to a solid support.
16. (AMENDED) The method of Claim 15, wherein said first probe in step d) does not [substantially] hybridize to said second folded target.
23. (AMENDED) The method of Claim 22, wherein said first probe in said second testing zone does not [substantially] hybridize to said second folded target.